

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS JULIAN,)
Petitioner,)
v.) Civil Action No. 05-954
PAUL STOWITZKY, et al.,) Judge Hardiman
Respondents.) Magistrate Judge Caiazza

ORDER

AND NOW, this 15th day of August, 2005,

The Clerk is directed to file the Petition for Writ of Habeas Corpus.

IT IS FURTHER ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, on the Attorney General of the Commonwealth of Pennsylvania and the Pennsylvania Board of Probation and Parole, costs to be advanced by the United States of America.

IT IS FURTHER ORDERED that within twenty (20) days of service of this order, the Respondent and the Attorney General of the Commonwealth of Pennsylvania, shall respond to the allegations of the petition for writ of habeas corpus. The Attorney General shall address all of the following:

1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2)¹; 2) the exhaustion of state court remedies as required by 28 U.S.C. §2254(b) and Picard v. Connor, 404 U.S. 270 (1971) with respect to each claim raised by the Petitioner, and, if appropriate, whether any of the claims were procedurally defaulted, and, 3) the merits of the petition. The answer shall comply with the requirements of Rule 5 of the Rules Governing Section 2254 cases in the United States District Courts. The Attorney General shall furnish this court with the state records relating to the parole proceedings at issue.

IT IS FURTHER ORDERED that the parties are allowed ten(10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

August 15, 2005

s/Francis X. Caiazza

Francis X. Caiazza
U.S. Magistrate Judge

cc:
Thomas Julian
801 Butler Pike
SRCF Mercer
Mercer, PA 16137

1. If respondents are certain that the AEDPA's statute of limitations does not apply, they need not address this issue. However, failure to address this issue may result in waiver of this defense.

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